IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 9428 of 2004
Date of Decision: Dec.7,2006

Ram Kumar and another ..... Petitioners

Versus

State of Haryana and another ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. S.M.Sharma, Advocate
for the petitioners.

Mr. R.S.Kundu, Addl. A.G. Haryana.

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ASHUTOSH MOHUNTA, J. (Oral)

The petitioners have impugned the notification issued under Section 4 of the Land Acquisition Act (for short `the Act') dated 20.10.2001 (Annexure P-2) and the notification under Section 6 of the Act dated 18.10.2002 (Annexure P-4) by which the land of the petitioners was acquired for a public purpose, namely, for the development and utilisation of land for residential and commercial purposes for Sectors 5 & 6, Sonepat.

Counsel for the petitioners has referred to the site-plan (Annexure P-5) to contend that the land immediately adjoining the land of the petitioners as shown in yellow colour has been left out from acquisition. It has also been averred that the lands opposite the land of the petitioners have also not been acquired by the Haryana State and, therefore, the petitioners have been discriminated against and they are entitled to have their land released.

Reply has been filed on behalf of the Land Acquisition Collector, Urban Estates, Haryana, Faridabad, on behalf of respondent Nos. 1 and 2 wherein it has been averred that the land of the petitioners was lying vacant at the time of issuance of notifications under Sections 4 and 6 of the Act. It has further been averred that the petitioners did not file objections

under Section 5-A of the Act and, therefore, now they are estopped from challenging the acquisition proceedings by filing the present writ petition.

Mr. Kundu, learned Additional Advocate General, Haryana, has referred to the judgment in ***Ashok Kumar Gupta and others v. State of Haryana*** reported as 2000(2) PLR 601 wherein it has been held that those who do not file objections are not entitled to challenge the acquisition by way of a writ petition.

The question whether objections under Section 5-A of the Act have been filed or not is being disputed by the counsel for the petitioners who contends that the petitioners did file objections before the Land Acquisition Collector, Faridabad, copy of which is Annexure P-3.

A perusal of the case file shows that the land of the petitioners was absolutely vacant at the time of issuance of the notification under Section 4 of the Act. The land which has been shown in yellow colour in the site-plan belongs to an Engineering College in the name and style of `Bhagwan Mahavir Education Trust' and, thus, the same has been released from acquisition. The case of the petitioners is not at par with the land shown in yellow colour or other land regarding which change of land use has been granted by the State of Haryana prior to the acquisition of land. Apart from the above, even the award has been passed now.

In view of the above, we find no infirmity in the issuance of notifications under Sections 4 and 6 of the Act and, accordingly, the writ petition is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

7.12.2006 **(NIRMAL YADAV)**
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